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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,759	07/09/2003	Kee Yean Ng	70021175-1	2290

7590 07/25/2006

AGILENT TECHNOLOGIES, INC.
Legal Department, DLA29
Intellectual Property Administration
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Loveland, CO 80537-0599

EXAMINER

FARAHANI, DANA

ART UNIT	PAPER NUMBER
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2891

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/616,759	NG ET AL.	
	Examiner	Art Unit	
	Dana Farahani	2891	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7 and 17 are rejected under 35 U.S.C. 102(b) as unpatentable under 35 U.S.C. 103(a) as being obvious over Kawae et al, hereinafter Kawae (US Patent application publication 2002/0080501), previously cited.

Kawae discloses in figure 8 a method for fabricating a light source comprising: mounting a chip 3 having a light source on a substrate 8, the primary light source emitting light of a first wavelength; connecting power terminals on the chip to corresponding power terminals 1 and 2 on the substrate; and mounting a preformed transparent cap 7 over the chip, the cap comprising a wavelength-converting material for converting a portion of the light of the first wavelength to a second wavelength.

Kawae, in the embodiment of figure 8, does not explicitly disclose the cap is a spherical surface of a constant thickness. However, Kawae discloses in figure 10, a spherical surface 6 above the LED 3. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the cap layer of the embodiment of figure 8 in a spherical form with constant thickness, so the light rays emitted from the LED would be affected such that they travel in a particular direction for a particular application of the LED, which one of ordinary skill in the art desires to implement the LED.

Response to Arguments

3. Applicant's arguments filed 5/4/06 have been fully considered but they are not persuasive.

Applicant argues that the figure relied upon in the reference, specifically figure 10, does not teach that the spherical surface has constant thickness, for the reason that the reference allegedly is silence with respect to this thickness. To further this argument, applicant points out that in figure 7 the thickness of the spherical surface is not constant.

In figure 7, the thickness of the spherical surface is intentionally made non-constant (see paragraph 59), indicating that the thickness of the spherical surface corresponds with what actually shown in the figures. Therefore, the reference is not silence about the relative thickness of the spherical surface, further indicating that the thickness of the spherical surface shown in the figures corresponds with actual thickness of different portions of the spherical surface.

The case law mentioned in page 4 of applicant's argument, states that if the specification is completely silent with regard to particular sizes of an element, then the drawings may not be relied upon for the sizes. However, as explained above, it is believed that the reference is not completely silence with respect to the thickness of different portions of the spherical surface, and again, the thickness of different sections of the spherical surface corresponds to what actually shown in the figures.

Applicant's argument that a spherical surface of constant thickness has no lens properties, and incorrectly concluding that it does not alter the direction of light, is not true. If the surface were otherwise (i.e. had angled edges as in figure 8), the direction of the emitted light rays would

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be different than when the surface is spherical with a constant thickness, as a person with ordinary skill in the art would appreciate.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Farahani whose telephone number is (571)272-1706. The examiner can normally be reached on M-F 9:00AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Baumeister can be reached on (571)272-1722. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Farahani



B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER